



To the Honorable Council  
City of Norfolk, Virginia

October 23, 2012

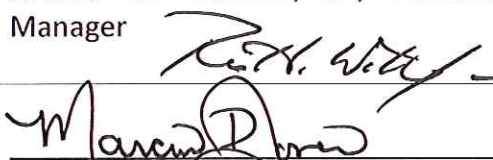
From: John M. Keifer, Director of Public Works

**Subject:** Condemnation of a Sidewalk  
Easement on Property Located at  
3014 Cape Henry Avenue

Reviewed: Ronald H. Williams, Jr., Assistant City  
Manager

**Ward/Superward:** 3/ 7

Approved:

  
\_\_\_\_\_  
Marcus D. Jones, City Manager

**Item Number:**

**C-4**

I. **Recommendation:** Schedule Public Hearing

II. **Applicant:** City of Norfolk

III. **Description**

This agenda item is to schedule a public hearing for an ordinance authorizing the use of the City's power of eminent domain in order to acquire a permanent right-of-way easement across a small portion of private property where new, ADA accessible sidewalk improvements are to be installed along the northern line of Cape Henry Avenue in the Ballentine Place neighborhood. A temporary construction easement to provide sufficient area to work on these improvement is also proposed to be taken, but only while the construction is underway.

IV. **Analysis**

Because an ADA accessible ramp at the point where the sidewalk intersects the street is somewhat larger than older ramps, a right-of-way easement across a small portion of property at the southeast corner of the 3014 Cape Henry Avenue is needed. A total of 7 square feet of private property will be impacted by the permanent easement. An exhibit showing the location of both the permanent right-of-way easement as well as the temporary construction easement is attached hereto.

V. **Financial Impact**

The taking of an easement by eminent domain requires that the owner be compensated. Based on the value of the easement at the southeast corner of this property, \$250 is to be authorized to acquire this right-of-way easement.

**VI. Environmental**

Securing the easement will have no environmental impact.

**VII. Community Outreach/Notification**

In an effort to establish contact and explore the possibility of acquiring the easement by agreement, multiple notices were sent to the property owner at all known addresses of record. No response has been received from these efforts. By setting this matter for a public hearing and granting permission to advertise, all legal notice can then be given.

**VIII. Board/Commission Action**

No Board or Commission actions are required in advance of an authorization for the use of eminent domain.

**IX. Coordination/Outreach**

This letter has been coordinated with the Department of Public Works and the City Attorney's Office.

Supporting Material from the Department of Public Works:

- Ordinance
- Exhibit showing easements to be acquired at 3014 Cape Henry Avenue

Form and Correctness Approval *2AP*By *Robert M. Smith*  
Office of the City Attorney

NORFOLK, VIRGINIA

Contents Approved:

By *John M. King*  
DEPT.

Pursuant to Section 72 of the City Charter, I hereby certify that the money required for this item is in the city treasury to the credit of the fund from which it is drawn and not appropriated for any other purpose.

\$ 250.00      4000-10-4101-5501  
Account  
*Sherrill*      10/5/12  
Director of Finance      Date

*ben***ORDINANCE No.**

AN ORDINANCE FINDING A PUBLIC NECESSITY FOR THE ACQUISITION OF A PERMANENT RIGHT-OF-WAY EASEMENT FOR THE PURPOSE OF CONSTRUCTING AND MAINTAINING A HANDICAPPED ACCESS RAMP FOR A PUBLIC SIDEWALK ON THE SOUTHEAST CORNER OF PRIVATE PROPERTY LOCATED AT 3014 CAPE HENRY AVENUE AND FOR A TEMPORARY CONSTRUCTION EASEMENT FOR THE PURPOSE OF FACILITATING THE IMPROVEMENT OF THE PUBLIC SIDEWALK ALONG CAPE HENRY AVENUE IN FRONT OF SAID PRIVATE PROPERTY; AUTHORIZING THE ACQUISITION BY CONDEMNATION OF BOTH THE PERMANENT AND TEMPORARY EASEMENTS AT 3014 CAPE HENRY AVENUE, SAID PROPERTY SITUATE IN THE CITY OF NORFOLK; AND AUTHORIZING THE EXPENDITURE OF THE SUM OF \$250.00 TO ACQUIRE SUCH.

- - -

WHEREAS, the City of Norfolk, by Virginia Code Sections 15.2-1901 and by Norfolk City Charter Section 2(5) and applicable law, is empowered to acquire any easement across private property for the purpose of use and enjoyment of property by the public on the southeast corner of property located at 3014 Cape Henry Avenue;

WHEREAS, the City of Norfolk, by Section 136(a) of its City Charter, 1948 Acts of the General Assembly, Ch. 233, as amended by Acts 1962, Ch. 62, is empowered to exercise

the power of eminent domain to acquire an easement across private property or any interest therein for public uses;

WHEREAS, it is the judgment of the Council of the City of Norfolk that a permanent right-of-way easement across the portion of property hereinafter described is necessary for the purpose of constructing and maintaining a handicapped access ramp for a public sidewalk on the southeast corner of property located at 3014 Cape Henry Avenue;

WHEREAS, it is the judgment of the Council of the City of Norfolk that a temporary construction easement across the portion of property hereinafter described is necessary for the purpose of facilitating the improvement of the public sidewalk along Cape Henry Avenue in front of the property at 3014 Cape Henry Avenue;

WHEREAS, available property records indicate that the owner of the property at 3014 Cape Henry Avenue at the time of the adoption of this Ordinance is Tymar, L.L.C., a Virginia Limited Liability Company; and

WHEREAS, the total estimated funds necessary to compensate the owner thereof for such easements is \$250.00; now, therefore,

BE IT ORDAINED by the Council of the City of Norfolk:



Section 1:- That, pursuant to the provisions of Virginia Code Section 15.2-1901 and Norfolk City Charter Section 2(5), the Council finds that acquisition of a permanent right-of-way easement located on property as hereinafter described is necessary for the purpose of constructing and maintaining a handicapped access ramp for a public sidewalk on the southeast corner of property located at 3014 Cape Henry Avenue.

Section 2:- That the City Manager be, and hereby is, authorized and directed to take such action as necessary to acquire the permanent right-of-way easement across said property, including the institution of condemnation proceedings as provided for in Norfolk City Charter Section 136(a) for the acquisition of said easement hereinafter described and the payment of compensation to the owner or owners thereof, as set forth and described as follows:

ALL THAT certain lot, piece or parcel of land situate, lying and being in the City of Norfolk, Virginia, said parcel being a portion of the property at 3014 Cape Henry Avenue on an exhibit entitled "Exhibit Showing Permanent Right-of-Way Easement and Temporary Construction Easement to be Dedicated to the City of Norfolk, Virginia Located on Property of Giddens Investment Group L.L.C.," dated November 17, 2009, prepared by Blakeway Corp., attached hereto as "Exhibit A."

The above-described portion of the property measures 7 square feet or 0.0002 acre.

Section 3:- That, pursuant to the provisions of Virginia Code Section 15.2-1901 and Norfolk City Charter Section 2(5), the Council finds that acquisition of a temporary construction easement located on property as hereinafter described is necessary for the purpose of facilitating the improvement of the public sidewalk along Cape

Henry Avenue in front of the property at 3014 Cape Henry Avenue.

Section 4:- That the City Manager be, and hereby is, authorized and directed to take such action as necessary to acquire the temporary construction easement across said property, including the institution of condemnation proceedings as provided for in Norfolk City Charter Section 136(a) for the acquisition of said easement hereinafter described and the payment of compensation to the owner or owners thereof, as set forth and described as follows:

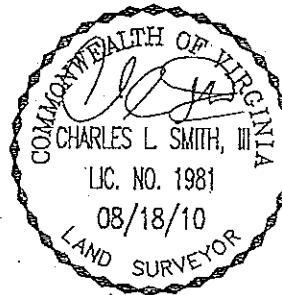
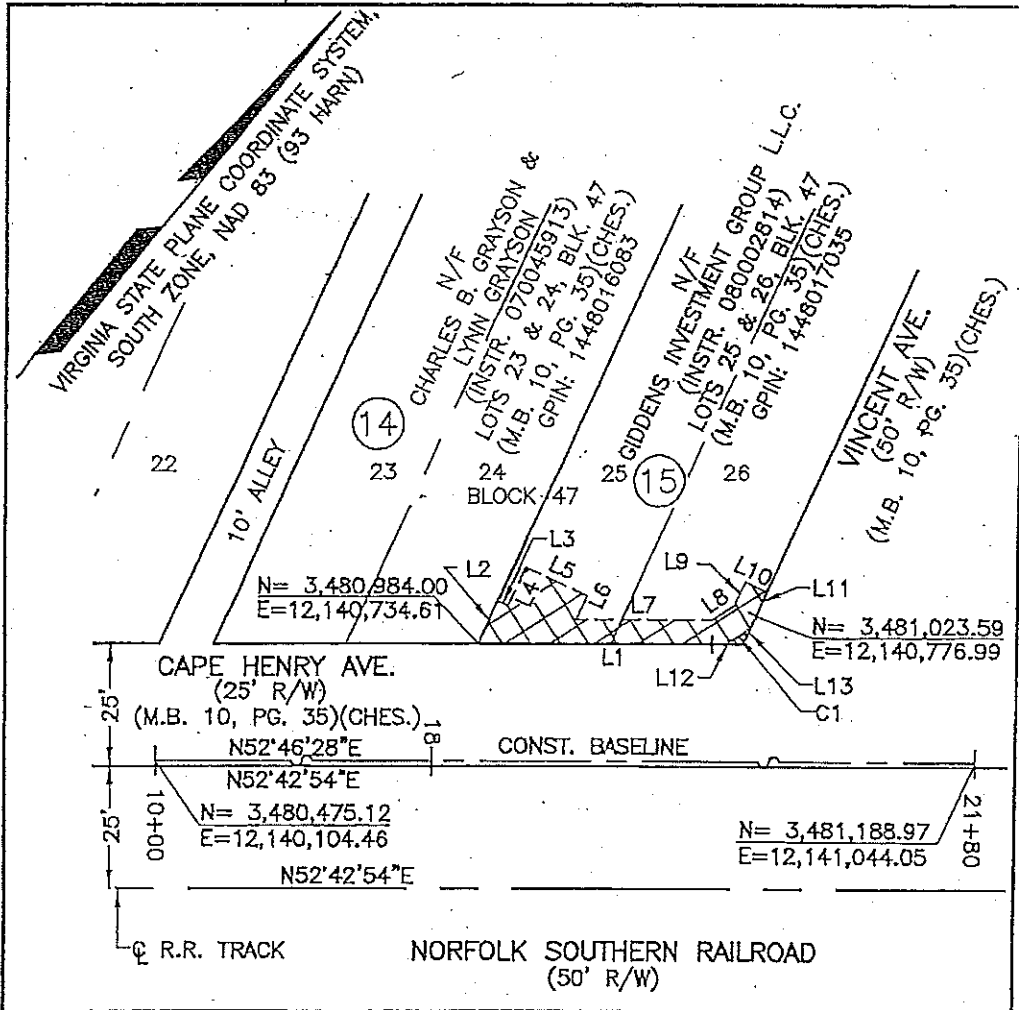
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The above-described portion of the property measures 436 square feet or 0.01 acre.

Section 5:- That the sum of \$250.00 is hereby authorized to be spent for the acquisition of these easements from monies previously appropriated for this project.

Section 6:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT:  
Exhibit A (2 pages)



(15) = PARCEL REFERENCE DESIGNATION

= TEMPORARY CONSTRUCTION EASEMENT TO BE DEDICATED TO THE CITY OF NORFOLK

= PERMANENT RIGHT-OF-WAY EASEMENT TO BE DEDICATED TO THE CITY OF NORFOLK

EXHIBIT SHOWING  
PERMANENT RIGHT-OF-WAY EASEMENT  
AND  
TEMPORARY CONSTRUCTION EASEMENT  
TO BE DEDICATED TO  
THE CITY OF NORFOLK, VIRGINIA  
LOCATED ON PROPERTY OF  
GIDDENS INVESTMENT GROUP L.L.C.  
(INSTR. 080002814)  
NORFOLK, VIRGINIA.

SEE SHEET 2 OF 2 FOR NOTES, AREA & CURVE DATA

**Blakeway Corp**  
engineering | surveying | project management

770 INDEPENDENCE CIRCLE, SUITE 100  
VIRGINIA BEACH, VIRGINIA 23455  
TEL 757-226-0081  
FAX 757-226-8765

GRAPHIC SCALE	0 15' 30' 60'
SCALE:	1"=30'
DATE:	11/17/09
PROJ.: CAPE HENRY15	FILE NO.: 6022.31
F.B. 12 PG. 78	SHEET 1 OF 2

## NOTES

1. THE MERIDIAN SOURCE OF THIS SURVEY IS BASED ON THE CITY OF NORFOLK GEODETIC CONTROL NETWORK WHICH REFERS TO THE VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 83 (93 HARN). COORDINATE VALUES (IF SHOWN) ARE EXPRESSED IN U.S. SURVEY FEET.
2. THIS EXHIBIT WAS PREPARED FOR PERMANENT RIGHT-OF-WAY EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT PURPOSES ONLY AND DOES NOT INTEND TO SHOW ANY OTHER EASEMENTS, RESTRICTIONS AND ENCUMBRANCES THAT MAY AFFECT SAID PROPERTY AS SHOWN.
3. PROPERTY LINE INFORMATION SHOWN IS BASED ON VARIOUS DEEDS AND PLATS OF RECORD AND FIELD MEASUREMENTS.
4. THIS EXHIBIT DOES NOT REPRESENT A BOUNDARY SURVEY OR SUBDIVISION OF LAND.
5. PERMANENT RIGHT-OF-WAY EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT, SHOWN HEREON, ARE TO BE ESTABLISHED/DEDICATED BY DEED OR AGREEMENT.
6. CONSTRUCTION PLAN REFERENCE: "CAPE HENRY AVENUE DRAINAGE IMPROVEMENTS" PREPARED BY BLAKEWAY CORP.

AREA DATA PERMANENT RIGHT-OF-WAY EASEMENT		
PARCEL	SQUARE FEET	ACRES
TOTAL SITE	5,192	0.119
R/W EASEMENT	7	0.0002
RESIDUAL	5,185	0.119

AREA DATA TEMPORARY CONSTRUCTION EASEMENT		
PARCEL	SQUARE FEET	ACRES
EASEMENT	436	0.010

LINE DATA		
LINE	BEARING	DISTANCE
L1	S 52°42'54" W	48.61'
L2	N 12°36'29" W	9.53'
L3	N 77°22'41" E	2.32'
L4	N 12°48'01" W	8.69'
L5	N 77°11'59" E	13.96'
L6	S 12°48'01" E	5.29'
L7	N 52°42'54" E	28.41'
L8	N 20°03'12" E	5.40'
L9	N 12°36'29" W	5.36'
L10	N 77°23'31" E	5.00'
L11	S 12°36'29" E	5.36'
L12	S 52°42'54" W	6.41'
L13	S 12°36'29" E	6.41'

CURVE DATA						
CURVE	RADIUS	DELTA	LENGTH	TANGENT	CHORD	BEARING
C1	10.00'	65°19'24"	11.40'	6.41'	10.79'	N20°03'12"E

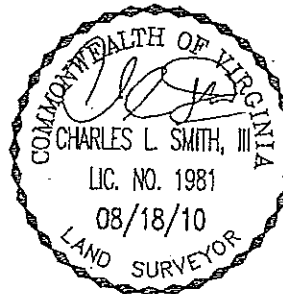


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<p>engineering   surveying   project management</p> <p>770 INDEPENDENCE CIRCLE, SUITE 100 VIRGINIA BEACH, VIRGINIA 23455 TEL 757-226-0081 FAX 757-226-3765</p>	GRAPHIC SCALE		0 15' 30' 60'	
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